

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L4

MAY 06 2004

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:

APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 210 of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] at Pacific Farm.

On appeal, the applicant reaffirmed his claim to having performed qualifying agricultural employment during the period in question. Subsequently, counsel for the applicant requested a copy of the applicant's legalization file. This request has been complied with.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the Form I-700 application, the applicant claimed to have performed a total of 100 man-days of qualifying agricultural employment from May 1, 1985 to May 1, 1986 for [REDACTED] at Pacific Farm in Fresno County, California.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED] who is designated as farm labor contractor.

In attempting to verify the applicant's claimed employment, information was acquired which contradicted the applicant's claim. On May 16, 1990, the office manager of [REDACTED] indicated that the company had not contracted with [REDACTED] since 1983.

On March 30, 1992, the applicant was advised by the director in writing of the adverse information and of the director's intent to deny the application. The applicant was granted thirty days to respond. The record contains no response from the applicant to the director's notice. The director concluded the applicant had not overcome the derogatory evidence, and denied the application on May 13, 1992.

On appeal, the applicant submitted photocopies of two barely legible U.S. Postal Service customer money order receipts. One receipt appears to include the applicant's name along with the address included on the I-705 affidavit purportedly signed by [REDACTED]. However, neither of the photocopied receipts carry an issuance date. Nor can it be adduced based on these marginally-legible photocopied money order receipts that the applicant performed qualifying agricultural employment for Joe Alarcon, as claimed.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence

(including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

According to the office manager of [REDACTED] was not contracted by the farm during the qualifying period and therefore would have had no knowledge of the applicant's claimed employment there. The documentation provided by the applicant on appeal fails to overcome such derogatory evidence, which directly contradicts his claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.